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09/465,198	12/15/1999	NICK J. MAZZARELLA	1	8604
30594	7590	02/09/2006	EXAMINER	
HARNESS, DICKEY & PIERCE, P.L.C.			APPIAH, CHARLES NANA	
P.O. BOX 8910			ART UNIT	
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			2686	

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/465,198

Applicant(s)

MAZZARELLA, NICK J.

Examiner

Charles N. Appiah

Art Unit

2686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-16 and 18 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-8, 17 and 19-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-4, 19, 20 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by **Agarwal et al. (6,317,601)**.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Regarding claims 1, 19, 20 and 23, Agarwal discloses a method for controlling messages in a communication system comprising the steps of: receiving a message blocking request from a first network component at a second network component, the message identifying a third network (transmission of code gap control message from SCP 10 to MSC 1, see col. 2, lines 31-57), and wherein the message blocking request specifies a duration of a blocking period (parameter specifying gap duration (the number of seconds for which code gapping should be applied), and the gap interval, see col. 2, lines 58-65, col. 3, lines 32-38), and preventing messages from being communicated from the third network component to the first network component if the first network component accepts the message blocking request based on an evaluation of the communication system (code gapping control being set up for the specified interval, service and digits, col. 3, lines 33-36).

Regarding claim 2, Agarwal further discloses wherein the step of preventing is performed at the second network component (code gapping control being set up when the code gapping request message is received by an MSC, see col. 3, lines 33-36).

Regarding claims 3 and 4, Agarwal further discloses the step of sending a message blocking command to the third network component wherein the step of preventing is performed at the third network component (feature of appropriate types of messages being subjected to code gapping, see col. 3, lines 34-40).

**3.** Claims 19-25 are rejected under 35 U.S.C. 102(e) as being anticipated by **Kadoshima et al. (6,526,282).**

Regarding claims 19, 20 and 23 Kadoshima discloses a method for controlling messages in a communication system comprising the steps of: receiving a message blocking request from a first network component at a second network component, the message identifying a third network (mobile communication switching center reporting its processing state, that is, the congested state or the normal state, to the management center, see col. 6, lines 19-33), and preventing messages from being communicated from the third network component to the first network component if the first network component accepts the message blocking request based on an effect on the communication system that may result from the preventing of the messages (inherent in the management center managing the processing state of the mobile communication centers based on the reports of the processing states of the switching centers, see col. 6, lines 34-40, col. 11, line 33 to col. 12, line 6).

Regarding claim 21, Kadoshima further discloses preventing messages from being communicated from the third network to the first network component if the third network component accepts the message blocking request (see col. 11, lines 52-65).

Regarding claim 22, Kadoshima further discloses wherein the step of preventing is performed at the third network component (inherent in not wastefully connecting a speech channel to a mobile communication switching center in a congested state, see col. 12, lines 25-39).

Regarding claim 24, Kadoshima discloses a method for controlling messages in a communication system, comprising the steps of: receiving a message blocking request from a first network component at a second network component, the message

blocking request identifying a third component, (mobile communication switching center reporting its processing state, that is, the congested state or the normal state, to the management center, see col. 6, lines 19-33), and wherein the message blocking request specifies at least one acceptance interval during a blocking period, the acceptance interval being a period during which at least one message may be communicated from the third network component to the first network component (attempt to connect speech channel to mobile switching center #1 in the congested state, if the usage rate of the CPU has temporary fallen based on the priority order of the other party – from the call originating terminal, see col. 17, lines 1-39, col. 18, lines 5-50), and preventing messages from being communicated from the third network component to the first network component if the second network component accepts the message blocking request based on an evaluation of the communication system (inherent in the management center managing the processing state of the mobile communication centers based on the reports of the processing states of the switching centers, see col. 6, lines 34-40, col. 11, line 33 to col. 12, line 6).

Regarding claim 25, Kadoshima discloses a method for controlling messages in a communication system comprising the steps of: receiving a message blocking request from a first network component at a second network component, the message identifying a third network (mobile communication switching center reporting its processing state, that is, the congested state or the normal state, to the management center, see col. 6, lines 19-33), and wherein the message blocking request specifies as an action to be taken by the third network element instead of communicating a message

from the third network component to the first network component (provision of congestion call forwarding service using congested state management table, see col. 18, lines 52-67), and preventing messages from being communicated from the third network component to the first network component if the second network component accepts the message blocking request based on an evaluation of the communication system (inherent in the management center managing the processing state of the mobile communication centers based on the reports of the processing states of the switching centers, see col. 6, lines 34-40, col. 11, line 33 to col. 12, line 6).

***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 6, 7, 8 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Agarwal et al** as applied to claim 1 above, and further in view of **Kadoshima et al. (6,526,282)**.

Regarding claims 6-8, Agarwal fails to explicitly teach wherein the message blocking request specifies at least one acceptance interval during a blocking period, the acceptance interval being a period during which at least one message may be communicated from the third network component to the first network component, wherein the message blocking request specifies an action to be taken by the third network component element instead of communicating a message from the third

network component to the first network component, wherein the second network component may modify the action specified in the message blocking request.

In an analogous field of endeavor, Kadoshima discloses a method and apparatus for controlling the restriction of traffic in a mobile communication system when congestion occurs (see col. 1, line 48 to col. 2, line 9). According to Kadoshima, an attempt to connect speech channel to mobile switching center #1 in the congested state, if the usage rate of the CPU has temporarily fallen based on the priority order of the other party – from the call originating terminal is made, (see col. 17, lines 1-39, col. 18, lines 5-50), which reads on the message blocking request specifies at least one acceptance interval during a blocking period, the acceptance interval being a period during which at least one message may be communicated from the third network component to the first network component and wherein the message blocking request specifies as an action to be taken by the third network element instead of communicating a message from the third network component to the first network component through provision of congestion call forwarding service using congested state management table, which may lead to modification of the action specified in the message blocking request (see col. 18, lines 52-67, col. 20, lines 1-42). Kadoshima teaches that determining the congestion state of a destination mobile communication switching center helps to reduce the time for processing of switching mobile communications to reduce the wasteful connection of speech channels (see col. 22, lines 6-16).



It would therefore have been obvious to one of ordinary skill in the art to combine Kadoshima's communication processing management system with Agarwal's Automatic code gapping system in order to reduce wasteful connection of communication resources as taught by Kadoshima.

Regarding claim 17, the combination of Agarwal and Kadoshima further teaches wherein the action includes communicating the message from the third network component to a specified alternate destination as taught by Kadoshima (see col. 18, lines 52-67).

#### ***Allowable Subject Matter***

6. Claims 9-15, 16 and 18 are allowed.

#### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Crawford (4,224,479) discloses a method for controlling call traffic in a communication switching system.

Vudali et al. (5,867,787) discloses a system for overload control in an integrated MSC/HLR switch.

Choi et al. (6,405,045) discloses a method for dynamic overload control in a digital mobile communication system.

#### ***Response to Arguments***


8. Applicant's arguments with respect to claims 1-8, 17 and 19-25 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Appiah whose telephone number is 571 272-7904. The examiner can normally be reached on M-F 7:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on 571 272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CA

  
**CHARLES APPIAH**  
**PRIMARY EXAMINER**